

ultimately, all pending claims will be allowed in this subject application, due to the presence of allowable generic claims and since encompassing a reasonable number of species (i.e., A to E).

The traverse arises in large part since the election requirement has been imposed on the basis of groupings of claims, rather than by identifying "disclosed species, to which claims are restricted." (MPEP 809.02(a)) The delineations, on which the claim groupings are postulated for purposes of the election requirement, unfortunately are not clearly and consistently drawn -- instead, numerous inconsistencies/contradictions arise.

For example, claim 17/11 which is included within Group II, Subgroup A, recites that the "point notification means has service contents storage means for storing a list of the types of services and corresponding points...." (See likewise claim 18/11). The Examiner, on the other hand, has designated Group V as being directed "to the limitations on providing a service to the customer...."

As another example, Group V encompassing claims 27-35 and 37 and while purportedly being directed to "the limitations on providing a service to the customer...", as above noted, includes therewithin claim 31/1 which recites that:

...[T]he point information is supplied to the customer through the customer or store terminal through communication circuits.

This limitation places claim 31/1 squarely within the Examiner's Group II species, characterized as involving "limitations on ... how the customer is notified of their point information."

As yet another example, Claim 34/30, while included in Group V relating to "providing a service" as specified in the Action, instead, recites aspects of the "point accumulation..." in relation to "the customer's cumulative points...." In reverse correlation to claim 34/30, claim 39/1 recites features of the

"point accumulation means" but this claim is grouped in Group I relating to "point issue means...."

In summary, it is submitted that the Action is defective, since contradictory and inconsistent as to the characterizations of the groups of claims asserted to define the allegedly differing specie and, moreover, as to the enumerated claims included in each group. As shown above, in many instances the claims listed in one group clearly should reside in a different group. Moreover, certain features segregated as separate species, instead, are integrally interconnected, e.g., by a dependent claim, as a component of an element which the Action places in a different specie/claim grouping.

For all of the foregoing reasons, it is submitted that the Action should be withdrawn and replaced by an appropriate Action. Accordingly, the traverse herein is based on the inconsistencies in the Action and the failure of the Action to specify species in relation to the disclosure, instead of specifying same by reference to groups of claims.

**REQUEST FOR WITHDRAWAL OF ACTION AND REFUND OF PETITION FEE**

Because of the deficiencies of the Action, it is submitted that, along with withdrawing the Action, the Petition fee paid herewith should be reimbursed.

Serial No. 08/187,543  
Art Unit 2411

Docket No. 122.1046/HJS

If any further fees are required in connection with the filing of this Amendment, please charge same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: November 20, 1995

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231.

on November 20, 1995  
STAAS & HALSEY

By: 

Date: 11-20-95